

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DANIEL KLEEBERG, et al.,

Plaintiffs,

-against-

WENDY EBER, in her individual
capacity and as Executrix u/w/o LESTER EBER, et al.,

Defendants.

16-cv-9517(LAK)

[Defendants' Proposed] ORDER

WHEREAS, a trial of this matter was held from September 14, 2021, through September 22, 2021, and at the conclusion, the Court reserved decision and directed the parties to file post-trial briefs along with proposed findings of fact and conclusions of law;

WHEREAS, the Court entered temporary injunctive relief orally on the record for a period of 14 days and extended same for an additional period of 7 days;

IT IS NOW ORDERED that the following restraints shall remain in place pending a final determination by the Court of the trial of this action and for seven (7) days thereafter, absent prior written approval of the Court on notice to the Plaintiffs:

Defendants Wendy Eber (in her individual capacity, in her capacity of Executor of the Estate of Lester Eber, and in her capacity as officer, director, shareholder, or member of any of the entity Defendants) and Alexbay, LLC and the Nominal Defendants are enjoined from selling, transferring, distributing, granting any lien or security interest of any kind in or on, or otherwise disposing of any shares or membership interest in, or assets of, or belonging to, directly or indirectly, Defendant Alexbay, LLC, or any Nominal Defendant, or causing any other Nominal

Defendant to dispose of such assets, other than in the ordinary course of business (for the avoidance of doubt, any payments of bonuses to Wendy Eber and distributions to equity holders, other than minimum tax distributions as required under existing governing documents, would constitute transactions outside the ordinary course of business); and

IT IS FURTHER ORDERED that the Defendants and Nominal Defendants shall, no later than October 26, 2012, file with the Court a statement disclosing whether they have sold, transferred, granted a security interest or lien of any kind in or on, or caused any other disposition of any shares of stock or membership interest of Defendant Alexbay, LLC or any Nominal Defendant within one year prior to the date of this Order, and if so, identifying and describing any such transaction(s).

IT IS FURTHER ORDERED that the foregoing provisions of this Stipulation and Order do not apply to Eber-CT's Amended and Restated Credit Agreement dated as of February 24, 2017, as amended, or to Canandaigua National Bank.

Honorable Lewis A. Kaplan
United States District Judge